HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL NO. 2531 OF 2005

Between:

The Chief Material Manager
(Controller of Stores),
Visakhapatnam Port Trust,
Visakhapatnam.

..... Appellant

AND

Md. Aslam

.....Respondent

Counsel for the appellant : Ms. V. Uma Devi

Counsel for the respondent : Shri V. Srinivas

Dated: 19.10.2006

:: J U D G M E N T::

Per G.S.SINGHVI, CJ

This is an appeal for setting aside order dated 23-9-2004 vide which the learned Single Judge disposed of the writ petition filed by the respondent as infructuous, but directed the non-petitioner (appellant herein) to take further action to confirm the services of the writ petitioner by observing that even the extended period of probation had come to an end.

The respondent – Md. Aslam joined the services of Visakhapatnam Port Trust as a clerk on 07.03.1992. He was placed on probation for a period of 24 months. By an order dated 26-2-2004, the period of his probation was extended. The respondent challenged that order by invoking jurisdiction of this Court under Article 226 of the Constitution of India. He pleaded that the employer does not have the power to extend the period of probation. He also filed an application for interim stay and succeeded in persuading the learned Single Judge to direct the employer not to terminate his service.

The writ petition filed by the respondent was taken up for final adjudication after almost one decade of its institution. The leaned Single Judge took cognizance of the fact that by virtue of interim order passed by the Court, the writ petitioner (respondent herein) has continued in service for more than ten years and disposed of the writ petition as infructuous, but gave direction to which reference has been made hereinabove.

We have heard Ms. Uma Devi, learned counsel for the

appellant and Shri V. Srinivas, learned counsel for the respondent. Ms. Uma Devi argued that while disposing of the writ petition as infructuous, the learned Single Judge could not have ordained the appellant to confirm the respondent de hors the rules and, therefore, the order under challenge should be set aside leaving it open to the competent authority to pass appropriate order in accordance with law.

Shri V. Srinivas, learned counsel for the respondent says that the operative part of the order under challenge does not contain any mandatory direction to the employer to confirm the respondent. He, however, submitted that the Division Bench may not interfere with the direction of the learned Single Judge because as on today the respondent has completed more than 14 years and 7 months of service.

We have considered the respective submissions. In our opinion, ends of justice would be met by disposing of the appeal with the direction that within two months from today, the competent authority of Visakhapatnam Port Trust shall pass appropriate order in the mater of confirmation of the services of the respondent in accordance with law. Ordered accordingly.

The writ appeal is disposed of in the manner indicated above.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

19.10.2006
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